

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
Plaintiff

v.

FABRICIO RAMIREZ-GARCIA
Defendant

Criminal No. 05-192(JAG)

RECEIVED & FILED
2005 OCT 25 AM 8:34
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

MINUTES AND ORDER

On October 19, 2005, the above-captioned case was set and to be called for an Evidentiary Hearing on defendant's motion to suppress statements (**Docket No. 19**). The setting was vacated and the defendant's motion is considered **MOOT**.

The record reflects that on August 19, 2005, the Federal Public Defender moved to suppress defendant's statement to law enforcement officers wherein he allegedly admitted being an illegal alien (**Docket No. 16**). On August 23, 2005, the motion was referred for a hearing and report and recommendation (**Docket No. 17**).

On September 13, 2005, the motion was still unopposed by the government. At the time the evidentiary hearing was set for October 19, 2005, and the government was granted until September 20, 2005, to file a response (**Docket No. 19**). The government filed its response on September 29, 2005, asserting that while it reserved its right to use other statements given by defendant, it did not intend to use in its case-in-chief defendant's statements admitting he was illegally in the jurisdiction (**Docket No. 21**).

The day before the evidentiary hearing, on October 18, 2005, Courtroom Deputy Sarah Ramón received a message on her voice mail at 5:27 PM, wherein Ms. Lucy Pacheco,

a secretary at the U.S. Attorney's Office, reported there were no prosecutors available to attend court proceedings, inasmuch as the attorney-in-charge of the case was assigned to attend Grand Jury proceedings.

On October 19, 2005, Assistant Federal Public Defenders Joannie Plaza and Max Perez-Bourget appeared in court requesting a continuance of the hearing and time to file a motion for designation of evidence and a supplementary motion to suppress.

An in-chambers meeting was held with the parties. The government attorneys are placed on notice that court hearings do have precedence over Grand Jury proceedings. (It is noted, however, that Assistant U.S. Attorney Evelyn Canals appeared in Court).

The attorneys from the Federal Public Defender's Office are expected as well to appear fully prepared. First, the record reflects that as of July 27, 2005, the government had filed a designation of evidence (**Docket No. 13**). Were a supplementary motion needed, counsel had approximately seventeen (17) days to have it filed (considering that the government's opposition was filed on September 29, 2005). Last minute cancellation of court proceedings affects allocation of judicial resources, court personnel (interpreters, court reporters) and scarce security resources (U.S. Marshal Office and Court Security Officers).

At this time the Motion to Suppress at **Docket No. 19** has turned **MOOT** in view of the government's response at **Docket No. 21**.

The parties are instructed to conduct and conclude discovery. Any new evidentiary issues are to be raised in writing.

Criminal No. 05-192(JAG)

Page No. 3

Copy of the Order is to be specifically served upon Assistant U.S. Attorney Sonia Torres, Chief, Criminal Division, U.S. Attorney's Office, and Joseph Laws, Esq., Federal Public Defender.

SO ORDERED.

At San Juan, Puerto Rico, this 21 day of October, 2005.


S/AIDA M. DELGADO-COLON
U.S. Magistrate-Judge